

UNITED STATES DISTRICT COURT

Northern District of California

ROSEMARY RUSSELL,

Plaintiff,

No. C 10-0450 MEJ

v.

SKYWEST AIRLINES INC, *et al.*,**ORDER RE DEFENDANTS'
SUPPLEMENTAL BRIEF (DKT. #28)**Defendants.
_____ /

Before the Court is Defendants' motion for judgment on the pleadings. (Dkt. #24.) The Court held a hearing on the matter on May 13, 2010, during which there was extensive argument on an issue raised for the first time in Defendants' Reply - federal preemption of Plaintiff's state law negligence claims under the Air Carrier Access Act of 1986 ("ACAA"), 29 U.S.C. § 41705, and its implementing regulations, which are codified in Title 14 of the Code of Federal Regulations as Part 382. (Defs.' Reply 9:9-11, Dkt. #24.) The Court ordered Defendants to submit a supplemental filing listing the sections of the Air Carrier Access Act which they claim preempt Plaintiff's claim for negligence. On May 13, 2010, Defendants submitted a supplemental brief which not only listed sections of the Code of Federal Regulations but also interpreted them and offered argument and citations to case law. (Dkt. #28.) On May 14, 2010, Plaintiff filed an objection to Defendants' brief, arguing that Defendants mis-characterize the Court's order and argue additional case law, constituting an untimely reply in violation of Civil Local Rule 7-4(d). (Dkt. #29.)

Considering that the crux of Defendants' argument in support of its motion for judgment on the pleadings was raised for the first time in their reply and further that Defendants filed an additional brief in support of their position, the Court ORDERS Plaintiff to file a surreply within seven days following issuance of this Order. The surreply must be limited to five pages in length, and Plaintiff is advised to memorialize the arguments advanced on her behalf at the May 13, 2010 hearing. Defendants will not be granted leave to file a response.

IT IS SO ORDERED.

Dated: June 23, 2010


 Maria-Elena James
 Chief United States Magistrate Judge